

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

DONALD DEAN GRANT,

Petitioner,

vs.

JIM SALMONSEN, WARDEN
MONTANA STATE PRISON;
AUSTIN KNUDSEN, ATTORNEY
GENERAL STATE OF MONTANA,

Respondents.

CV 21-134-M-DLC

ORDER

Before the Court is United States Magistrate Judge Kathleen L. DeSoto's Order and Findings and Recommendations (Doc. 19) concerning Petitioner Donald Dean Grant's Amended Petition for Writ of Habeas Corpus (Doc. 6).

This Court ordered Grant to show cause as to why his amended petition should not be dismissed as time-barred and procedurally defaulted and advised him of the relevant legal standards. (*See* Doc. 9.) Grant timely responded. (*See* Docs. 12, 12-1.) Grant also filed a supplement to his response along with additional exhibits. (*See* Docs. 15, 15-1.) In these filings, Grant does not dispute that his petition is untimely or that his claims are defaulted but instead presents arguments for why this matter should proceed regardless.

Judge DeSoto recommended that the Court deny and dismiss Grant's

Petition. (Doc. 19.) Because neither party objected, they are not entitled to *de novo* review. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). Therefore, the Court reviews the Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000). The Court finds no clear error in Judge DeSoto’s Findings and Recommendations and adopts them in full.

Accordingly, IT IS ORDERED that Judge DeSoto’s Findings and Recommendations (Doc. 19) are ADOPTED in full.

1. Grant’s Amended Petition (Doc. 6) is DISMISSED with prejudice as time-barred and procedurally defaulted.
2. The Clerk of Court is directed to enter a judgment in favor of Respondents and against Petitioner.
3. A certificate of appealability is DENIED.

DATED this 29th day of September, 2022.



Dana L. Christensen, District Judge
United States District Court